



Larry M. Weil, Planning Director
Steven Zimmer, Senior Planner

West Fargo Planning and Zoning Commission
December 10, 2007 at 7:00 P.M.
West Fargo City Hall

Members Present: Frank Lenzmeier
Wayne Nelson
Jason Gustofson
Terry Potter

Members Absent: Kim Keller, Harriet Smedshammer, Ross Holzmer

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Brett Waldera, Vicki Scott

The meeting was called to order by Chair Lenzmeier.

Commissioner Gustofson made a motion to approve the November 13, 2007 meeting minutes as printed. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A07-62 Amendments to the West Fargo Zoning Ordinance regarding Sign Regulations (Section 4-460) - Cook Sign.

Steven reviewed the following information from the staff report:

The City received a request from Cook Sign Company to consider amending our current sign ordinance. The developer submitted a copy of the Fargo and Moorhead codes with the application.

Following review of the request, it was discussed with staff from various departments. The proposed changes have been submitted by the applicant asking to change the ordinance to allow signs larger than the current maximum of 200 ft². The applicant proposes that total signage be calculated using 15% area of the building façade. This would allow much larger signs, on larger buildings, that are currently allowed. A hearing is scheduled before the Planning and Zoning Commission in December with hearings before the City Commission anticipated in January.

The planning staff has been working with the applicant to remedy a problem that arose this fall concerning a sign that was installed without a permit. After the sign was installed, staff contacted Cook Sign and informed them that a permit is required for all signage within the City of West Fargo and that we had not received a permit application. At this time the signage was reviewed and was found to be 330.5 ft², which is 130.5 ft² larger than our ordinances allow. We informed the sign company that they had installed an illegal sign, and informed them that they had three options to remedy the problem, which were: 1) Remove the sign, 2) Apply for a variance, and 3) Apply for a Zoning Ordinance Amendment. Cook Signs is pursuing a Zoning Ordinance Amendment.

Staff has communicated that we believe our current sign ordinance is adequate and represents the combined work of city staff, sign companies, and elected and appointed officials. Prior to and during the planning process for the 2000 West Fargo Comprehensive Plan substantial comment was received from the public regarding the need to better regulate signage in the City. The public felt that additional controls needed to be implemented to improve the image of the community. A great effort on the part of public and private parties resulted in a comprehensive sign ordinance amendment in 2003. Generally, the benefit to the City was tighter regulations on temporary type signs and increased site planning requirements on major street corridors, businesses saw an increase in the amount of sign area and number of potential signs available, lease space businesses realized an equitable distribution of signage based on the percentage of building space leased, and off-premise signs no longer needed to compete with the available sign area for the property. The City involved sign companies involved with freestanding signs,

wall signs, portable signs and off-premise signs. The sign companies did benefit from the changes and were satisfied with the amount of signage allowed. Overall the City relaxed a number of requirements, but in the end came up with an ordinance that addressed business and public concerns, thereby providing for the greater public good.

The applicant is proposing making the changes within the C: Light Commercial District, CM: Heavy Commercial/Light Industrial, and M: Heavy Industrial District. Staff feels that allowing this change could greatly hinder the aesthetics and desirability or the zoning districts in which the changes are proposed. A major concern when passing the existing sign regulations was to insure that the city had the ability to allow an equitable amount of signage for businesses and at the same time limiting visual clutter in our business districts. Wall signs are intended to be read from the nearest public street, not from several blocks away. As the vacant property south of the existing building is developed, the sign will not be visible from Main Avenue which is the basis that the sign company used to sell the size of sign. We have not had a problem with the sign ordinance being too restrictive in commercial and industrial areas since the current ordinance was adopted in 2003. Changing the ordinance because a sign company did not do the necessary ground work is not a good reason. The sign company in violation was involved with establishing the current ordinance standards.

It is recommended to deny the application for a Zoning Ordinance Amendment due to the fact that our current city sign ordinance provides for adequate signage. The ordinance also reflects and implements the community's vision for passive signage as provided for in the 2000 Comprehensive Plan, as well as the draft 2007 Comprehensive Plan under consideration.

Brett Waldera, Sales Director for Cook Sign, stated that it was an honest mistake. This is a \$30,000 sign and they normally don't apply for a permit until they sell the sign, don't write up a work order. Somehow the paperwork got misplaced and the sign was installed prior to obtaining a permit. When he did apply for the sign permit he was informed that the sign was too large.

Mr. Waldera stated that they deal with several communities in the area and he can't be expected to memorize every city's ordinances. He stated that he did have a copy of the West Fargo Sign regulations; however, the page regarding the 200 square foot cap was missing.

He stated that aesthetically, this doesn't make sense. They don't feel that the Trail King sign is out of proportion. They just want to change the existing ordinance by removing the 200 square foot cap. He then read that section of the ordinance.

Mr. Waldera compared this sign to Stockmen's Supply and Sunmart. They have more total signage than Trail King, but it's divided up into several different signs. He stated that if they removed this sign it would cost them over \$30,000. He asked if there is another facility in West Fargo that is the size of Trail King.

There were no other comments from the public. The hearing was closed.

Steven stated that it's not just about the Trail King sign. He's asking to change the signage regulations for the C, CM and M zoning districts. He stated that if changed, Menards could have a 1,500 square foot sign, Sunmart could have a 970 square foot sign. South of I-94, along 9th Street, there is the potential for some very large structures.

Commissioner Gustofson asked for clarification. He stated that if the ordinance changed, Midland Garage Door could have up to 15% of their building façade made up of signage. Steven stated it would be possible.

Chair Lenzmeier stated that changes could have far reaching consequences. Steven stated that a lot of time was spent rewriting the ordinances and staff from Cook Sign was involved in that process. We believe the current regulations are adequate.

Chair Lenzmeier asked what would happen if the ordinance changed. Steven stated that we would get a lot more applications from individuals requesting more signage.

Commissioner Gustofson asked Mr. Waldera how long he worked for Cook Sign. Mr. Waldera stated 7 years.

Steven stated that staff really believes the current sign ordinance is adequate. This has nothing to do with Cook Sign.

Chair Lenzmeier stated that we've just spent a lot of time updating the Comprehensive Plan and would think that if signage

regulations were an issue, it would have been brought up during meetings. Commissioner Gustofson stated that since updating the sign regulations, we have not seen the problems we've had in the past.

Mr. Waldera stated that Fargo and Moorhead have a 40% façade with no cap. Signage is self regulating. People don't want to put up something that is gaudy or garish. He stated that he doesn't understand having 15%, yet the sign can't exceed 200 square feet. Trail King could put up separate signs, but increase the total square footage. It's just a logo plus individual letters. West Fargo determines square footage of signage by drawing a box around the individual letters.

Larry reviewed changes of the sign ordinance in 2003. Previously all signage was classified together -- off-premise vs. on-premise. If there was an off-premise sign, it would affect the total amount of signage allowed for a site. Most industrial sites don't need that much signage and felt the amount of allowable signage was adequate. Gateway corridors were reviewed and found to need more total overall signage.

Steven stated that in some of the CM and M Districts, there is zero setback, so signage is allowed right up to the property line.

Commissioner Nelson stated that with the amount of time and input put into the sign ordinance, that changing it is not the route to go in this particular situation. Pursuing the variance request might be the way to go.

Commissioner Potter stated concern with changing the ordinance and that they need to consider the feelings of the general public who participated in developing the current sign ordinance.

Mr. Waldera stated that this change would only affect one sign and they'd still have to abide by the 15%.

Commissioner Nelson made a motion to deny the zoning ordinance amendment. Commissioner Potter seconded the motion. No opposition. Motion carried.

The next item on the agenda was A07-63 Variance to decrease the side yard setback from three (3) feet to two (2) feet to allow for reconstruction of a detached garage that does not meet ordinance standards 720 Elm Street (Lot 4, Block 4 of Westwood Subdivision), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property is located south of 7th Avenue West and west of the Sheyenne River on Elm Street. The original detached garage, which was built in October of 1970, was destroyed by a fire in September. Ordinances at the time, adopted in 1964, required a 3 foot side yard setback. This garage was built with a 2 foot side yard setback, which made it an *illegal* structure. The proposed use is not consistent with City Plans and Ordinances.

The applicant proposes to reconstruct a garage that was destroyed by fire. The original garage was built too close to the side property line, which does not meet ordinance standards. Prior to being destroyed the structure would have been considered an *illegal* structure. If the structure was legally constructed, but considered nonconforming because the ordinance setback became more restrictive, the current city ordinances (Section 4-474) state "Should such nonconforming structure...be destroyed by any means to the extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance."

Variances are only to be granted when the following can be demonstrated:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

It does not appear the variance can be justified as only one of the criteria listed above is met. There are no special conditions

and circumstances that exist with the property or buildings that are not applicable to other lands or buildings in the same zoning district. The property owner is not being deprived of rights being enjoyed by others because of the ordinance provisions. The conditions and circumstances, however, are not a result of the actions of the applicant. If the variance would be granted, the applicant would benefit from a special privilege that would not be provided to other lands, structures, or buildings in the same district. The applicant could add onto the slab and construct a garage within the setback requirements.

Notices were sent to adjacent property owners within 150'. City departments were also notified.

It is recommended to deny of the variance on the basis the application does not meet the criteria for granting a variance.

Applicant Vicki Scott asked that her garage be grandfathered in. If they move the wall over, it will miss the footings, the concrete would have to be cut. She also stated that moving it would work because of a handicapped ramp. She also needs room for unloading.

Chair Lenzmeier asked her to show them on the site plan where the ramp was located.

Commissioner Gustofson asked if the property pins had been located because maybe the fence was inset and not placed on the property line. Ms. Scott stated that she assumed they were in the right place because she used a metal detector. She didn't want to have her yard dug up, plus a neighbor warned her different surveyors might come up with different results every time.

Commissioner Gustofson asked if they've started construction. Ms. Scott stated that her contractor began work for a couple of hours, but then stopped until this issue was resolved. Meanwhile, all the building materials are lying around.

Commissioner Nelson stated that she should really have the pins identified. Maybe the garage met setbacks.

Chair Lenzmeier asked how much a survey would cost. Steven stated about \$300-400; however, Larry stated that it's possible only the one side would need to be done.

Ms. Scott stated that she doesn't want to incur any more costs. She's already in the hole from the fire

There were no other comments from the public. The hearing was closed.

Commissioner Gustofson stated that the Commission has to follow the ordinances and asked if there was a way to fix this.

Commissioner Potter stated that it's important to establish the lot lines. Discussion was held regarding identifying the lot lines. Chair Lenzmeier asked how the City could approve a building permit without knowing where the lot lines were located. Steven indicated there had been discussion regarding that and adding additional costs to the permitting fees.

Commissioner Gustofson asked about going with a 21' garage. Ms. Scott stated that she thought about that, but would still have issues with the ramp.

Commissioner Nelson stated that they have to adhere to the ordinance; however, Ms. Scott would have the ability to go before the City Commission.

Commissioner Nelson made a motion to deny the variance request. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

The next item on the agenda was Continued - A07-48 Variance to allow increased signage for Lot 1, Block 1 of Butler 6th Addition (2130 3rd Avenue NW), City of West Fargo, North Dakota - Cook Sign.

Steven stated that this item should be continued until the Zoning Ordinance Amendments are reviewed.

Commissioner Nelson made a motion to continue this item. Commissioner Potter seconded the motion. No opposition. Motion carried.

Larry stated that the City Commission, acting as the Board of Adjustments will be holding the public hearing on Vicki Scott's Variance next week at 5:45 p.m. on December 17th. The City Attorney determined that the hearing could be held then, so she wouldn't have to wait until January.

Commissioner Gustofson made a motion to adjourn. Commissioner Nelson seconded the motion. No opposition. Meeting adjourned.